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United Nations War Crimes Commission

Trial of YAMURA SABUROH by Netherlands Temporary
Courts Martial at Balikpapan (N.E.I.)
13th September, 1946

The following translation of the
judgment has been made available
to the Secretariat by Commander
M.W. MOUTON, Netherlands Represent-
ative on the U.N.W.C.C.

No.1/1946/Omd.

SENTENCE

IN THE NAME OF THE QUEEN

The Temporary Court-Martial at Balikpapan has pronounced the
following sentence in the case of the

Judge-Advocate, *ratione officii*
against

YAMURA SABUROH,
aged 32, born at Fukushima (Japan,
interpreter to the Saikoka, W.C.No.5/N-548
during the Japanese occupation, last place
of residence Sanga-Sanga, detained in the
War Criminals' compound at Santosa (Balikpapan).

In view of the decision by the judge-advocate at Balikpapan to
remit the case to the Temporary Court-Martial at Balikpapan, in which decision the
day of hearing was fixed and at the foot the accused was charged by the judge-
advocate:

" that he in Sanga-Sanga, anyhow in the Netherlands East-Indies, at a moment not
now to be determined with exactitude but in any case between approximately 24th
May 1942 and the Japanese capitulation in August 1945 and therefore in time of war,
as a subject of the enemy power Japan, in or during his function as Japanese inter-
preter to the Saikoka, committed war crimes in that he, contrary to the laws and
usages of war, systematically carried out a reign of terror against civilians and
prisoners of war there and at that time employed by the Japanese. He repeatedly
and unnecessarily maltreated them or at any events many of them, even when ill,
in a manner far exceeding the limits of the normal exercise of discipline, by
intentionally, and in many cases for a lengthy period of time on end and without
ceasing, giving them violent blows with his fist or with a thick piece of hard wood.

Among other things the accused:

- a. intentionally gave Tutuarima several violent blows with a stick whereby he
lost consciousness.
- b. intentionally gave Oesman and Senen several violent blows with a stick
whereby they lost consciousness and from which they died two weeks later in
hospital.
- c. intentionally gave Kasman several violent blows with a stick although he had
shown the accused his sickness report. In consequence Kasman was confined
to bed for a month.
- d. intentionally gave Salamoen several violent blows with roof-shingles so that
the shingles broke, continuing till Salamoen lost consciousness. He died
shortly afterwards.

- e. intentionally gave Marli several violent blows with his fist and with a stick, causing Marli to lose consciousness. Water was then thrown over him and the accused continued as before till Marli's jaw was dislocated and some teeth knocked out.
- f. intentionally and in company with other Japanese, on several successive days and each day for a lengthy period of time, beat Samidjan who had been suspended from a tree. Samidjan died shortly afterwards.

the which terrorism by the accused caused the death of, or at anyrate serious mental and bodily pain to the aforesaid persons;

which act has been defined and made punishable by article 1 Statute Book 1946 No.44 in connection with article 4 Statute Book 1946 No.45 (War Crimes Penal Law Decree).

In view of the writ and summons issued by the acting Provost-sergeant at Balikpapan whereby the accused is summoned to appear on Friday, 13th September, 1946 at 8.30 a.m. before the Court-Martial sitting in the office of the Commander of the forces, Santosa;

In view of the demand put in to the Court-Martial by the judge-advocate that the accused be found guilty of:

"systematic terrorism" and

therefore condemned to the death penalty;

Considering that the accused during the trial has denied being guilty of the charge brought against him,

that he has however confessed to having beaten people at the place and time as mentioned in the charge,

that having first denied then acknowledged that it was quite possible that he had beaten a member of the personnel until that person fell down unconscious then declared at the trial that he had never done such a thing and, after the passage in question had been read out to and shown him, declared that he had never made such a statement adding that he had again gone over in his mind everything he had done at that time and come to the conclusion that he had never beaten anyone till the person fell down unconscious through it,

that the accused had declared at the preliminary enquiry that he had probably not beaten Tatuvarima, declared however at the trial that he knew nobody of that name,

that during the trial and at the preliminary enquiry the accused stated that he had severely beaten coolies with a stick (among these presumably Oesman and Senen);

that he did not know Kasman and that Kasman's evidence was not true;

that he did not remember the name Salamoen and had never hit anyone with roof-shingles;

that he also did not remember the name Samidjan and had never ill-treated a person who with his hands bound together was suspended from a tree;

did not know Marli and had never beaten anyone who as a result bled and became unconscious;

Considering however that during the enquiry the witnesses Soehirman, Marli and Goesti Achmad declared on oath in the statements made out at their interrogation:

Soehirman:

that accused (the Japanese interpreter Yamura) behaved in a brutal fashion, that for no reason he thrashed people till they fell down unconscious, that he then threw water over them in order to bring them round and when they were again conscious thrashed them once more, that he saw the accused ill-treat Marli, Oesman and Senen, the two latter to such an extent that they died;

Kasman:

that, although he showed accused his sickness report, he was thrashed by the accused for not having turned up to work; that he was a witness of the ill-treatment by accused of Salamoen;

that the accused beat Salamoen with roof-shingles until they broke and Salamoen finally lay unconscious on the ground and had to be taken to hospital;

Marli:

that he was so badly thrashed by accused that he became unconscious, was then brought round again with water and again thrashed. as a result of which he dislocated his jaw and lost some teeth;

that he saw the

that he saw the accused beat Salamoen with bits of wood as a result of which Salamoen bled, lost consciousness and died a short while after;

Goesti Achmad:

that he saw accused beat Oesman and Senen, whom he had reported sick to accused, with a stick till they lost consciousness, had to be taken to hospital and died about two weeks later;

Considering that these statements by witnesses sworn to on oath were strengthened by information contained in statements by witnesses heard at the preliminary enquiry and not sworn to on oath;

Considering that it has been established at the trial that there was only one Yamura at Sanga-Sanga and so there can be no question of a mistake of persons the which might easily have happened seeing that among the Japanese several people bear the same name;

Considering further that the court-martial judges unacceptable that which the accused during the trial has recanted of statements made by him at the preliminary enquiry;

Considering therefore that, on the ground of that previously weighed with regard to its mutual connection and coherence, it has been proved legally and convincingly that accused did ... commit the offence with which he has been charged and is guilty of it, constituting that which is described in the dictum further on and made punishable by article 1 Statute Book 1946, No. 44 in connection with article 4 Statute Book 1946, No. 45, for which reason he deserves to be declared guilty and therefore sentenced to punishment;

Considering with regard to the penalty; that accused behaved in a very inhuman way, acted in an arbitrary and despotic fashion, brutally thrashed defenceless persons without previous investigation, his untruthful attitude both at the preliminary enquiry and during the trial;

Considering that the death penalty is regarded as being the heaviest that can be awarded in correct relation to the manner and gravity of the offences, the personality of the perpetrator and the circumstances in which the act was committed;

In view of articles 115 and following and 210 and following of the Revised Military Legal Procedure and article 1 Statute Book 1946, No. 44 in connection with article 4 Statute Book 1946, No. 45;

ADMINISTERING THE LAW
IN THE NAME OF THE QUEEN

declares the accused

YAMURA, Saburoh,
guilty of the crime of: "systematic terrorism";
Condemns him therefore to the DEATH penalty;
Requires that the costs of the trial be charged to the State.

Sentence passed by:
Major J.L. Paardekooper, President
Captain Dr. B. van Eyk } members
" Dr. L.S. Sie,)
in the presence of
Lt. Dr. W.M. Esser, Secretary
and resumed and decreed the 13th September, 1946.

Noted by me,
The Secretary,
s/Dr. W.M. Esser.

The President,
s/ J.L. Paardekooper.

Order of execution of the above sentence has this day been granted by me, Commander of the Forces in East Borneo.

s/ B. van 't Riet.

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Pronounced in full court-martial with open doors in presence of the judge-advocate and the condemned on Friday, 27th September, 1946.

Noted by me,
The Secretary,
S/Dr. W.M. Esser.

The President,
s/J. L. Paardekooper.